

EXHIBITS "B"

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RICHARD COLLINS,	:	CIVIL ACTION
	:	
Plaintiff,	:	
	:	
vs.	:	ORIGINAL
	:	
CITY OF PHILADELPHIA,	:	
et al.,	:	
	:	
Defendants.	:	NO. 16-5671

Oral deposition of SERGEANT EDWARD PISAREK,
taken at the City of Philadelphia Law Department, One
Parkway Building, 1515 Arch Street, 14th Floor,
Philadelphia, Pennsylvania, on Thursday, April 13,
2017, commencing at 2:10 p.m., before Andrea M.
Brinton, Certified Court Reporter and Notary Public.

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17 ALSO PRESENT:
18 Richard Collins
19
20
21
22
23
24

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Collins-1	Photocopy of Photograph	13
Scott-3	Photocopy of Photograph	15

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1
2 (By agreement of counsel, the reading,
3 signing, sealing, certification and filing are
4 waived; and all objections, except as to the form of
5 the question, are reserved until the time of trial.)

6 - - -

7 SERGEANT EDWARD PISAREK, after having
8 been previously sworn, was examined and testified as
9 follows:

10 - - -

11 EXAMINATION

12 - - -

13 BY MR. McDERMOTT:

14 Q. Sergeant, good afternoon.

15 A. Good afternoon.

16 Q. Thank you for putting up with this.

17 A. I'm making overtime.

18 Q. With regard to my client, Mr. Collins, do
19 you recall being involved in his arrest?

20 A. Yes.

21 Q. Okay. And you were working with a partner
22 that night?

23 A. I don't have a partner. I ride -- I'm a
24 supervisor. I was in -- at the time, though, I was

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1 in the vehicle with Michael Berkery, Officer Berkery.

2 I don't know why --

3 Q. Okay. So --

4 A. I don't know why we were in the vehicle
5 together. I don't know if we were coming from
6 somewhere, I can't tell you, but we responded to this
7 because we were close by.

8 Q. Okay. So you were with him --

9 A. I was in the vehicle.

10 Q. -- for whatever reason in a marked police
11 unit?

12 A. Right, I wasn't -- but we weren't partners,
13 we were -- I just happened to be in the vehicle with
14 him briefly --

15 Q. Okay.

16 A. -- and this happened.

17 Q. And were you driving the vehicle, if you
18 recall?

19 A. I don't recall.

20 Q. Okay. Do you recall seeing my client?

21 A. Yes.

22 Q. Where was he when you saw him?

23 A. Seventy -- Torresdale and Oakmont, 7500
24 block of Torresdale right in between Oakmont and

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1 Sheffield, I want to say. I'm not quite sure of the
2 cross streets there, but in that area.

3 Q. What was he doing when you saw him?

4 A. He's parked on a corner. As we came by, he
5 ducked down -- dipped down in the vehicle.

6 Q. Okay. So he was inside a vehicle?

7 A. That's correct.

8 Q. Okay. I want to show you what has been
9 marked as Scott-5. Do you recognize what Scott-5 is?

10 A. This is -- someone prepared a 75-48A for a
11 stop.

12 Q. Okay. By saying that, I'm taking it that
13 you're not the person who prepared it?

14 A. I did not prepare this, no.

15 Q. Okay. And do you know who did? Does it --
16 does the report state?

17 A. It says right here. It says report
18 prepared by Berkery.

19 Q. Okay. So I wanted to show you something in
20 it. They have different boxes, and at the top it
21 says type of stop --

22 A. Uh-huh.

23 Q. -- and it's marked off pedestrian.

24 A. That's exactly what it was.

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1 Q. Okay. Well, if he's in a motor vehicle,
2 why is it marked off as pedestrian?

3 A. The vehicle was not running and he was in
4 the vehicle, the vehicle was not moving, which would
5 not make it a vehicular stop for any type of -- for
6 it to be a vehicular stop, it would have to be some
7 type of vehicular infraction. He was stopped as a
8 pedestrian.

9 Q. The report, from your understanding, the
10 way that it's filled out, is Philadelphia Police
11 procedure?

12 A. Yes, that would be why he filled it out
13 that way, but you would have to ask him. That's the
14 way I would fill it out.

15 Q. Okay. But, in fact --

16 A. He wasn't moving in the vehicle.

17 Q. He was inside a vehicle, so he wasn't
18 standing up?

19 A. No.

20 Q. He wasn't on the sidewalk?

21 A. No. He actually dipped down in the car.

22 Q. Okay. So was the car door closed or
23 opened?

24 A. I don't recall.

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1 Q. Okay. So you couldn't see what color his
2 pants were as you drove by?

3 A. I don't know.

4 Q. Okay. Well, do you recall?

5 A. I don't -- what do I recall? That's a
6 broad question.

7 Q. No, I'm asking do you recall whether you
8 could see his pants or not?

9 A. I don't recall.

10 Q. Okay. Could you see what kind of coat he
11 was wearing?

12 A. We could see from the shoulders up until he
13 dipped down in the vehicle.

14 Q. Okay. Were the lights on in the vehicle?

15 A. I don't recall.

16 Q. Okay. Well, this is at night; right?

17 A. Yes. I believe it was on a very well-lit
18 corner and there are streetlights.

19 Q. This is March -- it says date and time of
20 occurrence, March 23rd, 2013, 7:55 p.m.

21 A. Correct. We were right next to the
22 vehicle.

23 Q. Okay. You're right next to the vehicle?

24 A. Correct.

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1 Q. Okay. And what about what you saw of him
2 in that time matched the flash information?

3 A. The description of the white male in the
4 proximity of the area to where the robbery took
5 place, his actions trying to avoid us and dipping
6 down into the vehicle, we decided to do a pedestrian
7 investigation in reference to the robbery.

8 Q. Now, what did you do?

9 A. Can you be more specific, please?

10 Q. You drive by, you see a white male, you
11 believe, slipping down. What do you do?

12 A. We stop the vehicle right next to his and
13 we exited the vehicle.

14 Q. Okay.

15 A. At that time, as we walked up next to him,
16 we noticed he was breathing heavily.

17 Q. Okay. And what did you do, ask him to get
18 out of the car?

19 A. I believe -- Officer Berkery had most of
20 the contact with him. I was -- I was there
21 basically -- obviously, as an officer at that point,
22 but as a supervisor on the scene.

23 Q. Okay. Why didn't you give any type of
24 report or interview following this?

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1 A. I wasn't the arresting officer at the
2 scene.

3 Q. You were not the arresting officer?

4 A. No, sir.

5 Q. So what did you do following this? Did you
6 leave and go about your business as a supervisor?

7 A. That's correct. Officer Berkery went up
8 and prepared the information he needed to prepare, as
9 far as documents pertaining to the arrest, and I went
10 on the street, because I can't come off the street as
11 a supervisor.

12 Q. When did you leave the area?

13 A. I don't recall.

14 Q. Okay. Were you there when my client was
15 identified?

16 A. I was.

17 Q. And tell me what happened with the
18 identification.

19 A. There were several people stopped in the
20 area, including ours. We were waiting for the
21 complainant to be brought over to our location.
22 Before our -- the arrival at our location of the
23 complainant, there were several negative IDs.

24 Upon arriving on our location, I can't

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1 tell you who the officer was who had the complainant.
2 It was an Asian female in the back. She stepped out
3 of the vehicle and she was adamant and started
4 yelling that that was him.

5 Q. Where was my client?

6 A. I don't recall.

7 Q. Was he in his vehicle?

8 A. At that time? No, he was definitely out of
9 the vehicle. I can't tell you where he was standing.

10 Q. Was he in handcuffs?

11 A. I don't recall. We wouldn't handcuff him
12 until we get the actual positive ID, so my guess
13 would be he would have been standing at the back of
14 the vehicle.

15 Q. Why would police paperwork not indicate
16 that other suspects were stopped and the complainant
17 brought to them to see if she could identify them?

18 A. Because that's in reference to him and only
19 him. That information is not pertinent to that.

20 Q. To this --

21 A. That's correct.

22 Q. -- piece of paper?

23 A. To that stop, correct.

24 Q. But --

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1 A. It's not the whole case. This is just in
2 reference to his stop, why he was stopped and that's
3 it. This isn't part of an entire package of
4 discovery, as you would know. The only thing -- any
5 other negative IDs in the area wouldn't go towards
6 discovery.

7 This is just a way of the City of
8 Philadelphia, the police department, to track who we
9 stopped; and, furthermore, that gets put into
10 evidence later. The negative IDs would not be on
11 this at any point in the investigation.

12 Q. And where in the investigation would
13 negative IDs be?

14 A. That would be up to the detective to put
15 that into the 49 or whatever.

16 Q. Okay. So you --

17 A. The 48A is specifically for that stop.
18 That's not --

19 Q. You don't know --

20 A. That's not for evidence, sir.

21 Q. You don't know if that's in the discovery
22 or not?

23 A. I can't tell you that, sir, I don't know.

24 Q. Okay. But as Philadelphia Police policy,

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1 it's supposed to be in the discovery?

2 MR. SHOTLAND: Objection.

3 What?

4 BY MR. McDERMOTT:

5 Q. Police procedure in Philadelphia for
6 preparing discovery, you're familiar with it; right?

7 A. Yes, of course.

8 Q. And in an investigation, if there is other
9 negative identifications, is that supposed to be in
10 the discovery?

11 A. I can't answer that. I don't know. You
12 could clearly pull the CAD from the -- if they
13 admitted the CAD, that's up to the detective. I
14 don't know if that's policy per detectives, I've
15 never been one.

16 Q. And you don't recall whether -- I'm sorry.
17 Take a look at what has been marked Collins-1. Do
18 you recall seeing those sneakers on my client?

19 A. That night? I don't remember the sneakers
20 he was wearing, but, obviously, this was them.

21 Q. Did you see the surveillance film that I
22 supplied to Mr. Shotland earlier today?

23 A. About a half an hour ago.

24 Q. I'm sorry?

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1 A. Yes, about a half an hour ago.

2 Q. Okay. Did the person in the video that was
3 the perpetrator of the robbery, did he have a black
4 jacket on?

5 A. I couldn't tell what the color of the
6 jacket was. The color's not very good in the -- in
7 that video.

8 Q. Could you see whether he had a hoodie on?

9 A. Yeah, it was a -- like, a big parka jacket
10 with fur on the end of it.

11 Q. But could you tell if he had a grey hoodie
12 on?

13 A. Underneath the parka?

14 Q. Yeah.

15 A. You can't tell.

16 Q. You can't tell?

17 A. No.

18 Q. So could you tell -- could you see the
19 sneakers?

20 A. Yes.

21 Q. In your opinion, did the sneakers in the
22 picture in front of you, Scott -- I'm sorry,
23 Collins-1, match the sneakers in the video?

24 A. Yes, very similar to the sneakers in the

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1 video that I just watched --

2 Q. Did the video?

3 A. -- almost identical.

4 Q. Did the sneakers in the video have white
5 soles?

6 A. Yes.

7 Q. They had white soles?

8 A. Yes.

9 Q. And how many times did you watch the video?

10 THE WITNESS: How many times
11 did you play it? Two, three times?

12 MR. SHOTLAND: It's your
13 memory.

14 THE WITNESS: Two or three
15 times.

16 BY MR. McDERMOTT:

17 Q. In Scott-3, do you see that sneaker?

18 A. That's just this part of the sneaker. That
19 doesn't show the sneaker.

20 Q. It shows that being red; correct?

21 A. No, it says -- it shows -- that's not --

22 MR. SHOTLAND: He's pointing to
23 the tongue of the sneaker.

24 THE WITNESS: I can't tell.

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1 BY MR. McDERMOTT:

2 Q. Yeah, the tongue of the sneaker.

3 A. I can't tell. There could be some red in
4 there, sure.

5 Q. Wait a second. You're pointing in --

6 A. I don't understand. Are you asking me --

7 Q. Hold on. You're pointing in --

8 A. You're pointing from the sole to that.

9 Q. You're --

10 MR. SHOTLAND: Wait for his
11 question.

12 BY MR. McDERMOTT:

13 Q. You're pointing in Scott-3 to what appears
14 to me to be a lightish red that you're saying in
15 Collins-1 is what's on the tongue?

16 A. Yes, that's the tongue.

17 Q. Okay.

18 A. That's clearly the tongue.

19 Q. And in the picture that I showed you,
20 although it's black-and-white --

21 A. Uh-huh.

22 Q. -- what color is that?

23 MR. SHOTLAND: Is it black or
24 white?

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1 BY MR. McDERMOTT:

2 Q. Is it black or white?

3 A. Oh, okay. It's a mixture of white, grey.

4 Q. Is it red?

5 A. It's black-and-white photo, so, no.

6 Q. What, if any, evidence did you recover from
7 my client that would tie him to this robbery?

8 A. I didn't recover anything from him.

9 Q. Okay. You didn't search him?

10 A. I don't recall if it was me or Berkery --

11 Q. All right.

12 A. -- but I'm not -- I didn't recover anything
13 from your client.

14 Q. Did you have any conversation with my
15 client about getting receipts out of the -- out of
16 his vehicle for either PNC Bank or Dunkin' Donuts?

17 A. I don't recall any -- his car looked
18 like -- there was paper all over the vehicle. It
19 looked like if I would have pulled up on it without
20 anybody in it, I would have thought it was abandoned.

21 Q. Do you recall asking him for -- I'm sorry.
22 Do you recall him asking you or Officer Berkery to
23 look into the car for that?

24 A. I don't recall.

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1 MR. McDERMOTT: All right. I
2 have no other questions.

3 MR. SHOTLAND: I don't have any
4 questions for you.

5 BY MR. McDERMOTT:

6 Q. Hold on one second. Hold on. I have a
7 couple more questions.

8 Do you recall whether my client was in
9 handcuffs when he was identified?

10 A. I don't recall.

11 Q. Do you recall running my client on the
12 computer with his information in the car to determine
13 what his background was?

14 A. That's quite possible, but I don't recall
15 doing that.

16 Q. Is that something you generally do?

17 A. We always run whoever we stop.

18 Q. Okay. Do you recall running him and seeing
19 that he had a prior robbery conviction?

20 A. I don't recall.

21 Q. And you never went to the store in this
22 matter?

23 A. I didn't go to the store, I don't believe
24 so, no.

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1 MR. McDERMOTT: Okay. I have
2 no other questions.

3 (Discussion held off the
4 record.)

5 MR. McDERMOTT: For purposes of
6 the record, can we agree that I gave you
7 a copy of the video surveillance from the
8 store?

9 MR. SHOTLAND: Yes.

10 MR. McDERMOTT: And that you
11 showed it to Sergeant Pisarek and
12 Detective Scott before the deposition?

13 MR. SHOTLAND: They saw it very
14 briefly.

15 MR. McDERMOTT: Okay. But they
16 saw it, and we can put a copy of that in
17 as an exhibit with this deposition?

18 MR. SHOTLAND: Sure.

19 MR. McDERMOTT: Okay.

20 MR. SHOTLAND: Well --

21 MR. McDERMOTT: You have it.

22 MR. SHOTLAND: It wasn't
23 referred to in the deposition, so what's
24 the point of putting -- I can go get it.

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1 MR. McDERMOTT: It was referred
2 to a lot. I asked them whether they saw
3 it before, I asked whether the sneakers
4 matched it and stuff.

5 MR. SHOTLAND: The video is
6 going to come in at trial.

7 MR. McDERMOTT: For purposes of
8 whatever motions we have.

9 MR. SHOTLAND: It's been turned
10 over and they saw it.

11 MR. McDERMOTT: Okay. And we
12 can -- can we make that an attachment to
13 this deposition or agree that you have a
14 copy of that and we can use it for
15 purposes of whatever paperwork we have?

16 MR. SHOTLAND: Yes. The
17 video's part of the case.

18 (Deposition concluded at
19 2:23 p.m.)

20

21

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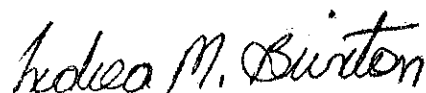
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CERTIFICATION

- - -

I hereby certify that the testimony and the proceedings in the foregoing matter are contained fully and accurately in the stenographic notes taken by me, and that the copy is a true and correct transcript of the same.



Andrea M. Brinton, Certified
Court Reporter and Notary Public

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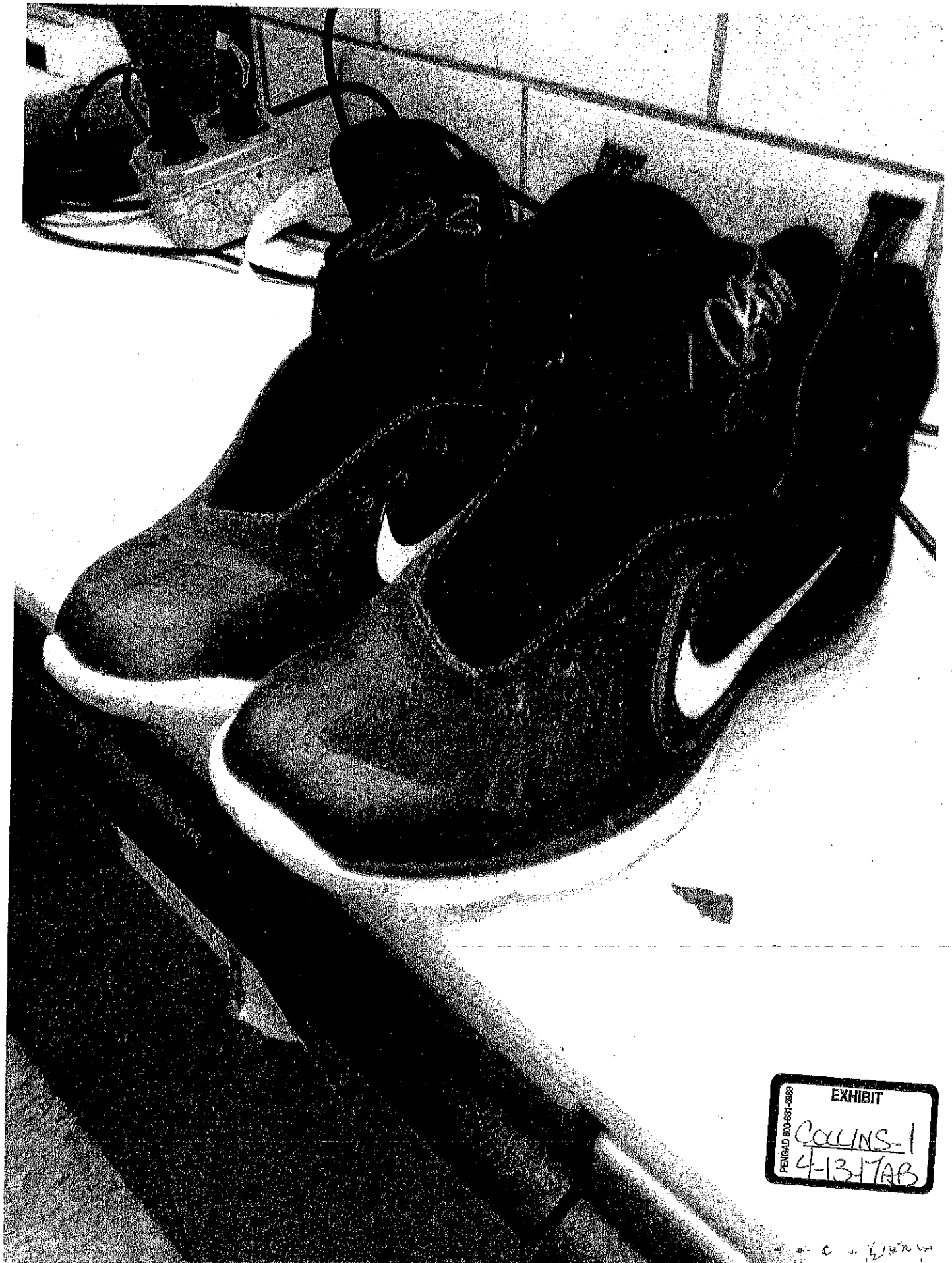




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